BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

MELODY J. SCHULTZ Claimant)
VS.	ý) Docket No. 216,673
DANISCO INGREDIENTS USA, INC. Respondent))
AND	\ \
HARTFORD ACCIDENT & INDEMNITY COMPANY Insurance Carrier)))

ORDER

Respondent appeals from the preliminary hearing Order of Administrative Law Judge Alvin E. Witwer of December 12, 1996, wherein Judge Witwer granted claimant medical treatment, psychological treatment, and temporary total disability compensation from the claimant's injury of August 14, 1996.

Issues

Whether the Administrative Law Judge exceeded his jurisdiction in ordering psychological and orthopedic medical care and temporary total disability benefits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for the purpose of preliminary hearing, the Appeals Board finds as follows:

K.S.A. 1996 Supp. 44-534a limits the right of the parties to appeal from preliminary hearings to situations where there is a dispute as to "whether the employee suffered an accidental injury, whether the injury arose out of and in the course of the employee's employment, whether notice is given or claim timely made, or whether certain defenses apply" These defenses are considered jurisdictional and subject to review by the Appeals Board. The only alternative method of appeal from a preliminary hearing order is discussed in K.S.A. 1996 Supp. 44-551(b)(2)(A) which states in part:

"If an administrative law judge has entered a preliminary award under K.S.A. 44-534a and amendments thereto, a review by the board shall not be conducted under this section unless it is alleged that the administrative law

judge exceeded the administrative law judge's jurisdiction in granting or denying the relief requested at the preliminary hearing."

Respondent's contention that claimant is not entitled to temporary total disability compensation or orthopedic medical treatment falls under neither the jurisdictional issues in K.S.A. 1996 Supp. 44-534a nor K.S.A. 1996 Supp. 44-551. The Administrative Law Judge clearly has jurisdiction to order both medical treatment and temporary total disability compensation. Respondent's contention that claimant's psychological problems did not arise from the work-related injury is an issue previously addressed by the Appeals Board. The Appeals Board has continuously held that claimant's entitlement to psychological treatment falls under the issue of the nature and extent of disability rather than whether claimant suffered accidental injury arising out of and in the course of her employment. See Love v. AIFAM Enterprises, Inc., Docket No. 190,944 (September 1996). Therefore, the Appeals Board lacks jurisdiction to review this matter.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the appeal of the respondent in this matter should be, and is hereby, dismissed, and the preliminary Order of Administrative Law Judge Alvin E. Witwer dated December 12, 1996, remains in full force and effect.

IT IS SO ORDI	ERED.
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Dated this	day of Fe	bruary 1997
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BOARD MEMBER

c: Timothy J. Pringle, Overland Park, KS
Heather Nye, Kansas City, MO
Office of Administrative Law Judge, Overland Park, KS
Philip S. Harness, Director